IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

WP(C).No. 40527 of 2003(Y)

PETITIONERS:

----

1. **SARALA, AGED 40 YEARS,**
   D/O.SREEDHARAN, PODIMANNIL VEEDU,
   KARAVOOR MURI, PIRAVANTHOOR VILLAGE,
   PATHANAPURAM TALUK.

2. **NANDU AGED 7 YEARS,**
   S/O.DISEASED SYANMALA, PODIMANNIL VEEDU,
   KARAVOOR MURI, PIRAVANTHOOR VILLAGE,
   PATHANAPURAM TALUK,. REP. BY ITS PLAINTIFF
   AS NEXT FRIEND.

BY ADV. SRI.C.S.MANU

RESPONDENTS:

----

1. **SOMARAJAN, AGED ABOUT 50 YEARS,**
   S/O.KUNJUKUNJU, THARUNILA VEEDU,
   KARAVOOR MURI, PIRAVANTHOOR VILLAGE,
   PATHANAPURAM TALUK.

2. **VIJAYAN, AGED ABOUT 45 YEARS,**
   S/O.KUNJU RAMAN, PODIMANNIL VEEDU,.
   KARAVOOR MURI, PIRAVANTHOOR VILLAGE,
   PATHANAPURAM TALUK.

3. **ALEXANDER, AGED ABOUT 50 YEARS,**
   S/O.VARGHESE, MEENASADANAM, KARAVOOR MURI,
   PIRAVANTHOOR VILLAGE, PATHANAPURM TALUK.

4. **JAMES S/O.ALEXANDER**
   KARAVOOR MURI, PIRAVANTHOOR VILLAGE,
   PATHANAPURAM TALUK.

5. **SADANANDAN, AGED ABOUT 65 YEARS,**
   S/O.KRISHNAN, SADANANDALAYAM, THALPPANARAKULAM,
   KARAVOOR MURI, PIRAVANTHOOR VILLAGE,
   PATHANAPURAM TALUK.

...2/-

6. SREEKUMAR, S/O.SADANANDAN,
KARAVOOR MURI, PIRAVANTHOOR VILLAGE,
PATHANAPURAM TALUK.

7. SREEDHARAN, AGAED 70 YEARS,
PODIMANNIL VEEDU,
KARAVOOR MURI, PIRAVANTHOOR VILLAGE,
PATHANAPURAM TALUK.

8. SASANKAN, AGED 33 YEARS,
S/O.SREEDHARAN, WORKING AT GULF COUNTRY,
KARAVOOR MURI, PIRAVANTHOOR VILLAGE,
PATHANAPURAM TALUK.

BY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.40527/2003 Y

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE PLAINT DTD. 3/03/2001 IN O.S.NO.115 OF 2001 FILED BY THE PETITIONERS ON THE FILE OF THE MUNSIFF'S COURT, PUNALOOR.**

EXT.P2: **COPY OF THE I.A.NO.860 OF 2003 IN O.S.NO.115 OF 2001 DTD. 7/06/2003 FILED BY THE PETITIONERS ON THE FILE OF THE MUNSIFF'S COURT, PUNALOOR.**

EXT.P3: **COPY OF THE OBJECTION DTD. 24/07/2003 FILED BY 3RD RESPONDENT IN I.A.NO.860 OF 2003 IN O.S.NO.115 OF 2001 BEFORE THE MUNSIFF'S COURT, PUNALOOR.**

EXT.P4: **COPY OF THE ORDER DTD. 24/07/2003 IN I.A.NO.860 OF 2003 IN O.S.NO.115 OF 2001 PASSED BY THS MUNSIFF'S COURT, PUNALOOR.**

/TRUE COPY/

KSS

PIUS C. KURIAKOSE,J.

- -

W.P.(C) No.40527 of 2003

- -

Dated: 20th June, 2007

JUDGMENT

This Writ Petition is remaining defective for want of service of notice to some of the respondents who did not have any contest before the court below. Of course a few of them had contested. But Ext.P4 is the order under challenge. Under Ext.P4 the learned Munsiff dismissed an application for commission filed by the petitioner on the reason that the affidavit in support of the application was quite unsatisfactory. I do not find any infirmity about Ext.P4 warranting correction in the supervisory jurisdiction of this court under Article 227 of the Constitution. I confirm Ext.P4. However, the confirmation of Ext.P4 will not stand in the way of the learned Munsiff passing orders on fresh application, if any, which may be filed by the petitioner producing materials which may convince the learned Munsiff regarding the relevance of a Commissioner's report for resolving the controversies involved in the suit. Subject to the above observation, the Writ Petition is dismissed. No costs.

srd **PIUS C.KURIAKOSE, JUDGE**